

The 8th April, 1986

No. 9/6/86-6Lab./2826.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of M/s (i) Central Soil and Water Conservation Research of Training Institute Research Centre, Sector 27, Chandigarh, (ii) Assistant Central Soil and Water Conservation Research and Training Institute, Mansa Devi, post office Manimajra, district Ambala.

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,  
AMBALA

Reference No. 134 of 1985

between

SHRI RAM RATTAN, WORKMAN AND THE MANAGEMENT OF THE MESSRS (i) CENTRAL SOIL AND WATER CONSERVATION RESEARCH AND TRAINING INSTITUTE, RESEARCH CENTRE, SECTOR 27, CHANDIGARH, (ii) ASSISTANT CENTRAL SOIL AND WATER CONSERVATION RESEARCH AND TRAINING INSTITUTE, MANSA DEVI, POST OFFICE MANIMAJRA, DISTRICT AMBALA.

Present:—

Shri Ajit Singh, for workman

None for respondent.

#### AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred,—vide clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, referred dispute between Shri Ram Rattan workman and Messrs the Central Soil and Water Conservation Research and Training Institute, Research Centre, Chandigarh, to this Court. The terms of the reference are as under:—

Whether the termination of services of Shri Ram Rattan, workman, is according to law, if not, to what relief is he entitled?

Ram Rattan workman through his claim statement alleged that he was employed as an unskilled worker in Mansa Devi Research Farm since 1st July, 1966. He had been performing his duties to the satisfaction of the management. His services were terminated on 1st February, 1984 against the provisions of section 25 (F) of the Industrial Disputes Act, 1947. So he has prayed for relief of reinstatement with continuity in service and with full back wages.

Notices were issued to respondents. Respondent No. 1 was served for 2nd August, 1985, but none appeared so *ex parte* proceedings were taken up against respondent No. 1. Respondent No. 2 was served for 16th October, 1985. On that day in spite of service none appeared and contested for respondent No. 2. So *ex parte* proceedings were taken up against respondent No. 2.

Shri Ram Rattan in support of his case app. earned in the witness box as Aw-1, He deposed that he joined service of respondent on 1st July 1966 as an unskilled labourer on daily wages. His services were terminated on 1st February, 1984 without issuing any notice to him, without holding any enquiry and also without making payment of any retrenchment compensation. He has prayed for reinstatement with continuity in service. He also stated that after his termination 25 labourers have been employed by the management and he was not called for duty.

I have heard the workman and his A.R. Shri Ajit Singh Bagri and have perused the *ex parte* evidence placed on the file and of the view that both the respondent were served on different dates as mentioned above but none of them cared to contest this reference so both the respondents were proceeded *ex parte*.

The *ex parte* evidence present on the file clearly shows that Ram Rattan served the respondents more than 240 days. His services were terminated without issuing any notice, without making payment of wages in lieu of notice period and also without making payment of retrenchment compensation. It is also in the statement of workman that 25 fresh workers have been employed by the respondent management without any offer to him to join his duties.

The above *ex parte* evidence of the workman goes unchallenged and unimpeached. So the termination dated 1st February, 1984 of workman Ram Rattan is set aside. It is declared null and void against the law, he is entitled to reinstatement with continuity in service and with full back wages.

I pass my *ex parte* award regarding the dispute in question accordingly.

Dated the 3rd February, 1986.

V. P. CHAUDHARY,  
Presiding Officer,  
Labour Court, Ambala.

Endorsement No. 386, dated the 10th February, 1986.

Forwarded (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. C. CHAUDHARY,  
Presiding Officer,  
Labour Court, Ambala.

The 25th February, 1986.

No. 9/6/86-6Lab./1161.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of the Haryana Urban Development Authority, Chandigarh :—

IN THE COURT OF SHRI V. P. CHAUDHARY,  
PRESIDING OFFICER, LABOUR COURT,  
AMBALA

Ref. No. 191 of 1984

(Old No. 1 of 1984)

SHRI PREM CHAND WORKMAN AND THE  
MANAGEMENT OF THE HARYANA  
URBAN DEVELOPMENT AUTHORITY,  
CHANDIGARH.

Present :

Workman in person.

Shri R. S. Sathi, for respondent.

#### AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred,—vide clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 has referred dispute between Shri Prem Chand workman and the Haryana Urban Development Authority, Chandigarh, to Labour Court, Faridabad. The terms of the reference are as under :—

"Whether the termination of services of Shri Prem Chand workman was justified and in order? If not to what relief is he entitled?"

On constitution of Labour Court at Ambala in April, 1984 this reference was received by transfer.

Shri Prem Chand workman through his statement of Claim alleged that he was employed in the service of the respondent-management on workcharged basis. His appointment was subject to the provisions of Haryana Urban Development Act, 1977 and the rules and regulations made thereunder. On 9th May, 1983, he was falsely implicated in a criminal case and thereafter respondent-management removed workman from services with effect from 10th May, 1983 afternoon. It was further alleged that workman has put in service more than 240 days of the respondent-management. So the provisions of Section 25(f) of the Industrial Disputes Act, 1947 were not followed before terminating his service, no pay in lieu of, notice period, no retrenchment compensation was paid to him. So the workman has prayed for his re-instatement with continuity in service and with full back wages.

Respondent-management contested the case and contended that the reference is bad for non-joinder of necessary parties. In this case the Chief Administrator was necessary party to dispute, he was not impleaded as a party to litigation; it was further contended that Labour Court has got no jurisdiction to try this case. It was also contended that the termination of the workman is according to the provisions of the work charge staff, so it was urged that the workman was involved in a police case. Keeping in view the report of the Police Inspector the services of workman were terminated with effect from 10th May, 1983 in the terms and condition of No. 6 of appointment letter. It was made clear to the workman that he will get 10 days notice period pay on furnishing no dues certificate.

It was also contended that provisions of Industrial Disputes Act, 1947 are not applicable to the workman. So he is not at all entitled to any relief under the Industrial Disputes Act, 1947.

Workman filed replication through which he controverted the allegations of the respondent-management.

On the pleadings of the parties the following issues were framed:—

*Issues:*

1. Whether the termination order dated 10th May, 1983 regarding services of workman is justified as per reference? If not, its effect? OPM
2. Whether the application is bad for non-joinder of necessary parties as alleged? OPM
3. Whether Labour Court has got no jurisdiction to try this dispute as alleged? OPM
4. Relief.

I have heard the learned authorised representative of workman and Shri R. S. Sathi, for the respondent-management and have perused the oral and documentary evidence placed on the file. My issue-wise findings are as under :

*Issue No. 1:*

In support of this issue management examined MW-1 Shri Sat Pal who stated that he brought copy of F.I.R. Exhibit M-1. He further stated that case pertaining to this F.I.R. is pending in the court of Shri S. K. Dhawan, JMJC, Ambala City. Exhibit M-2 Shri Ram Sarup brought the appointment letter of this workman, Photostat copy of same Exhibit M-2, he produced report of Chowkidar Photostat copy of the same Exhibit M-3. Photostat copy of order of Chief Engineer is Exhibit M-4. Copy of order of termination is Exhibit M-5. Termination order were received by workman,—vide receipt Exhibit-M-6. In cross-examination this witness stated that the department before terminating service of respondent did not issue any notice to workman but ordered the payment of 10 days pay in lieu of notice period, this pay could not be disbursed to him because workman failed to submit no dues certificate.

AW-1 Prem Chand appeared in the witness box and supported his claim. In cross-examination he stated that he alongwith his co-workman never checked the trucks and never personated as a member of R.T.A. staff. Shri Gurdial Singh never personated as R.T.A.

In view of above evidence I would like to further refer here the provisions of Public Works Department Code, its para No. 1.129. Works establishment will include such establishment as is employed upon the actual execution, as distinct from the general supervision of a specific work of or sub-works of a specific project or upon the subordinate supervision of departmental labour stores and machinery in connection with such a of sub-works, provided that as an exception to the above mistries and mates employed in the interests of Government on the technical supervision of contractors work and Khalasis attached to subordinates for assisting them on works will be treated a work charged establishment. When employees borne on the temporary establishment are employed on work of this nature, their pay should, for the time being, be charged direct to the work.

Members of the work charged establishment other than Road Inspectors, who are engaged, on the footing of monthly servants will be subject to discharge at 10 days notice except in the case of serious misconduct or gross in-efficiency (when no notice will be given) or on payment of pay for 10 days or for such period up to this extent as may be due to them in lieu of notice. Should they desire to resign they will be required to give 10 days notice or forfeit pay for this period or for such period up to this extent as may be due to them in lieu of notice.

In view of the above rules in PWD Code when the workman was employed these terms and conditions were also mentioned in his appointment letter. Photo-stat copy of the same is Exhibit M-2. Condition No. 8 reads that your services can be terminated with 10 days notice of termination without making payment of any pay if you feel to resign the post you will also have to give 10 days notice for leaving the job failing your pay for the said period or period failing which required notice shall be forfeited.

In view of above evidence and the provisions mentioned here, the service terms and conditions of the workman are very clear. Since the workman was employed on work charged basis, so his services could be dispensed with 10 days notice or with immediate effect for making payment of 10 days pay.

In the case in hand services of the workman were terminated with immediate effect that is from 10th May, 1985 afternoon with the direction that the workman shall be paid 10 days pay on producing the no dues certificate.

The case laws cited by the workman's authorised representative that in this case the workman must have been paid the pay of notice period but department failed to do so in those circumstances it was stressed that termination order be held unjustified. But I do not agree with the law cited by the authorised representative of the workman because the order of termination is very clear in which it has been ordered that 10 days pay be paid to the workman on producing no dues certificate. The law cited by the workman nowhere reads that no dues certificate was not a pre-requisite.

So in these circumstances the termination order is valid. The workman failed to produce no dues certificate due to that fact 10 days pay in lieu of notice period could be paid to him which does not make termination order as illegal.

In the case in hand no show cause notice, no inquiry was required as per terms and conditions of the services of the workman. Accordingly, when a report received from S.H.O. that Gurdial Singh personated himself as R.T.A. and his co-workman including the present workman Prem Chand personated as a member of staff of R.T.A. due to that fact his services were terminated.

Workman has produced copy of judgment from the Court of Shri Dhawan after hearing argument of this case. It was not tendered into evidence even than I would like to make mention of the same. The last concluding para of the judgement reads that certain material witnesses were with held by the prosecution and adverse inference of the same has to be drawn against the prosecution. It was also observed that the case of the prosecution is doubtful in the absence of with holding of material evidence so the court after affceding benefit of doubt acquitted workman and his co-workman. Where there is a acquittal of a workman after getting benefit of doubt in those circumstances that is not a clear cut acquittal for the purpose of service matter of a board employee.

In those circumstances I am of the confirmed view that the workman's services were terminated according to the terms and conditions of the service. Workman himself failed to produce no dues certificate so he could not be paid 10 days pay in those circumstances the termination order of service of workman is according to law. So this issue is decided in favour of management and against the workman.

#### Issue No. 2

The reference is bad for non-joinder of necessary parties in this case; the Chief Administrator of Haryana Urban Development Authority was also necessary party but he was not impleaded, so the reference is bad. This issue is also decided in the affirmative.

#### Issue No. 3

The case in hand is covered under the Industrial Disputes Act, so this dispute is triable by this Court, so this issue is decided against the management.

#### Issue No. 4

For the foregoing reasons on the basis of my issue-wise findings I hold the termination order as just and in order. I pass my award regarding the dispute in question accordingly.

V. P. CHAUDHARY,

Presiding Officer,  
Labour Court, Ambala.

Dated 26th December, 1985.

Endorsement No. 3321, dated Ambala City, the 31st December, 1985.

Forwarded (Four Copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,  
Labour Court, Ambala.

KULWANT SINGH,

Secretary to Government, Haryana,  
Labour and Employment Department.